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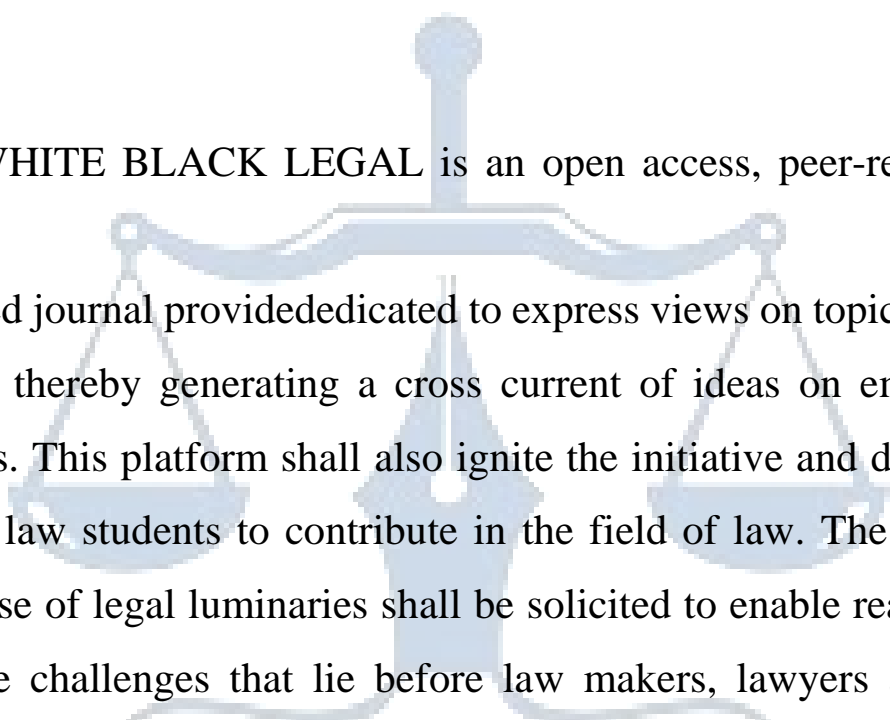


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ABOUT US



WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

"COMPETITION LAW IN INDIA: EVOLUTION FROM MRTP ACT 1969 TO THE COMPETITION ACT 2002 AND ITS IMPACT ON ANTI-COMPETITIVE PRACTICES"

AUTHORED BY - MUSKAN WADHWA (LAWYER)

ABSTRACT

Competition law is a rapid growing arena of law which reflecting the free markets economy and raising world globalization. The large financial transition which has occurred in modern days raised the attractiveness of this topic, and competition lawyers are now famous in the biggest law organizations advising in multifaceted deals. Competition laws, also acknowledged as antitrust law in some jurisdiction is that division of law which is made to safeguard the interests of the consumers by safeguarding 'competition' in the marketplace. This 'competition' is safeguarded by protect trade and businesses from restraint, monopoly, price-fixation, and price inequity. The objective of the competition policies is to make business surroundings where the organization can challenge each other and there must be always sufficient opportunities for the new company to link the competition with the current organization. These types of policies often endorses competence, means it provides a chance to the companies to boost their effectiveness to get businesses opportunities and make better income and also maximize the wellbeing of the individuals of the community as in such kind of market situation the individuals have sufficient options¹.

In India, the M.R.T.P Acts was endorsed in the year 1969. "The focal point of the M.R.T.P Act was more on the control of syndications and the forbiddance of monopolistic and prohibitive exchange practices. In the ongoing period of globalization, the M.R.T.P Act had become outdated and there was a need to move the concentration from checking syndications to advancing competition. The Focal Government, along these lines, contained a general leading group of legal administrators known as the Raghavan Board and directly following considering its report and thoughts from various accomplices, enacted another guideline called the

¹ Dugar, S.M. *Guide to Competition Act, 2002* (LexisNexis) 7th Ed., 2017.

Competition Act, 2002". The Focal Government also involved the CCI. According to the Competition Act a cartel is molded expecting three basics are fulfilled

- i. A plan which integrates game-plan or understanding
- ii. Agreement is among creators, traders, wholesalers, agents or expert associations, for instance parties are busy with vague or relative trade of items or game plan of organization, and
- iii. The course of action intends to limit, control or try to control the creation, movement, and arrangement or worth of, or, trade items or plan of organizations.

INTRODUCTION

It is progressively perceived like never before that competition in business sectors advances productivity, supports development, improves quality, helps decision, diminishes costs, prompts lower costs of labor and products. It additionally guarantees accessibility of labor and products in plenitude of adequate quality at reasonable cost. It is likewise a main impetus for developing the intensity of the homegrown business: organizations that don't confront competition at home are more averse to be around the world cutthroat. Competition guarantees opportunity of exchange and forestalls maltreatment of financial force and in this manner advances monetary popular government. Along these lines, competition in business sectors is kindhearted for customers, business houses and economy all in all.

The shortfall of reasonable and free competition, nonetheless, escapes the partners the advantages of competition. It is this basic which has convinced nations to either enact their competition law or to modernize their current competition law and to patch up Competition Authorities, the quantity of nations having a competition law has ascended from 35 of every 1995 to around 100 as on date.

Competition is "a circumstance wherein individuals or associations contend with one another or something that not every person can have." Although it isn't characterized in law yet is for the most part perceived to mean the interaction of contention to attract more clients or improve benefit. Competition law manages market disappointments because of prohibitive strategic policies on the lookout. Advanced competition law is for the most part acknowledged to have had its establishments in the Sherman Act (1890) and the Clayton Act

(1914) both initiated in the United States. India, since achieving Independence in 1947, for the majority of 50 years from there on, received and followed strategies including what are known as Command-and-Control laws, rules, guidelines and chief orders.²

HISTORICAL EVOLUTION OF COMPETITION LEGAL

FRAMEWORK IN INDIA

The administering enactment in the enormous field of competition laws in India is the Competition Act of 2002 which supplanted the M.R.T.P Act, 1969. The principle object of the Act is to move the concentration from checking imposing business models to advancing competition both in homegrown and the global field.[iv] The low down focal point of the Competition Act is to profit the purchasers and deny hostile to cutthroat arrangements which finds arrange in Sec.3 of the Competition Act, 2002. This part pronounces any such arrangements to be void. It covers arrangements in regard of creation, supply, conveyance, stockpiling, obtaining or control of products or arrangement. Further, the Competition Act, 2002 engages the Competition Commission to enquire and pass orders as it might consider fit as per different arrangements of the Act, according to arrangements alluded to in Sec.3 which are gone into outside India however having an impact in Competition in India.

The competition act accommodates staying away from specific errors and inconsistencies which would emerge out of out of line exchange practices, because of free and open market economy. One such error can be as ANTI COMPETITIVE AGREEMENTS. As it has been seen by National Consumer Disputes Redressal Commission:

"... Indeed, even in any free economy/liberated economy abuse of the borrower/debt holder is denied and is viewed as unmerited exchange practice. Free economy would not mean permit to misuse the borrowers/account holders by exploiting their fundamental requirements for their business. This can't be allowed in any cultivated society - possibly a de-directed unregulated economy. "

S.3 of the Competition Act expresses that any understanding which causes or is probably going to cause an AAE on competition in India is considered to be against serious.

S.3 (1) of the Competition Act disallows any concurrence concerning "creation, supply, dispersion, stockpiling, and securing or control of merchandise or administrations which

² Avtar Singh, *Competition Law*, (Delhi, Eastern Book International Journal of Law, Company, 2012).

causes or is probably going to cause an apparent unfavorable impact on competition inside India".

In this way, it has been seen that the job of the new competition strategy is to cook against a wide range of hostile to serious practices, figured according to the report of a High Level advisory group, selected by the Government of India, named-Raghavan Committee Report, 2000.

The idea and significance of a reasonable and sound competition as summed up by the SCI on account of *CCI vs SAIL* -

"Overall goal of competition law is to restrict the job of market power that may result from generous focus in a specific industry. The significant worry with imposing business model and comparable sorts of focus isn't that being huge is essentially unwanted. Be that as it may, due to the control applied by an imposing business model over value, there are financial proficiency misfortunes to society and item quality and variety may likewise be influenced. Subsequently, there is a need to ensure competition. The main role of competition law is to cure a portion of those circumstances where the activities of one firm or two lead to the breakdown of the unrestricted economy framework, or, to forestall such a breakdown by setting down rules by which rival organizations can contend with one another. The model of wonderful competition is the monetary model that typically strikes a chord when contemplating the cutthroat business sectors."³

Therefore, the basic aim and goal of Competition policies are to achieve:

Unhindered market access monetary development social government assistance all round proficiency by-powerful assignment of assets, greatest creation, and dynamic advancement.

M.R.T.P Act-first exchange administrative enactment Quite a while:

According to its introduction, the M.R.T.P Act is an "Act to give that the activity of the monetary framework doesn't bring about the convergence of the financial capacity to the regular impediment, for the control of syndications, for the denial of monopolistic and prohibitive exchange practices and for issue associated therewith or accidental thereto."

³ (2010) 10 SCC 744.

CARTELS UNDER M.R.T.P ACT 1969:-

The M.R.T.P Act, has its beginning in the Directives Principle of State Policy, typified in the Constitution of India. It was enacted to prevent grouping of financial capacity to the regular disadvantage, accommodate control of syndications, disallow monopolistic and prohibitive exchange practices and prohibit unreasonable exchange practices. The M.R.T.P Act enabled the Central Government to set up a position, called the M.R.T.P.C, which has analytical, warning and adjudicative capacities, to supervise the execution of the M.R.T.P Act. The M.R.T.P could examine into any prohibitive exchange practice, on a grumbling from any exchange or buyer affiliations or upon a reference made by the Central or State Government, or upon the application made by the Director General of Investigation and Registration DG (IR) – which is the insightful wing of the M.R.T.P.C, or on suo moto premise.

Grievances with respect to prohibitive exchange practices from influenced parties is needed to be alluded to the DG (IR) for leading starter investigation of the M.R.T.P Act. “One illustration of a RTP is a cartel. As held in *UOI & Others .v. Hindustan Development Corporation*⁴ Cartel is an association of producers who by agreement among themselves attempt to control production, sale and prices of the product to obtain a monopoly in any particular industry or commodity”.

Under the M.R.T.P Act, cartel is classified as a RTP, which has been characterized as "an exchange practice which has or may forestall, misshaping or confining competition", S.2(o) of the M.R.T.P Act.

Different classifications of arrangements identified under S.33(1) of the M.R.T.P Act, including understanding, which limit people from whom certain items can be purchased have been seen by se restrictive. Cartels, fall under stipulation (d) of the part, which communicates that "any agree to trade items or to sensitive for the arrangement or securing of product right at costs or based on conditions or conditions settled upon between the vendors or purchasers, will be considered with the ultimate objective of this Act, to be a comprehension relating to restrictive trade practices and will be presented to selection as under S.35 of the M.R.T.P Act".

⁴ 1994 CTJ 270 (SC) (M.R.T.P).

CONCLUSION

In conclusion, competition law plays a pivotal role in ensuring the efficient functioning of markets, promoting innovation, lowering prices, and improving the quality of goods and services. The transition from the MRTP Act of 1969 to the Competition Act of 2002 marked a significant shift in India's legal framework, focusing on fostering a competitive environment rather than merely regulating monopolies. This change highlights the growing importance of a market-driven economy that encourages fair competition, which benefits consumers, businesses, and the economy as a whole.

The Competition Act, with its emphasis on preventing anti-competitive agreements, abusive practices, and the creation of cartels, aims to protect market integrity and promote consumer welfare. The establishment of the Competition Commission of India (CCI) has further strengthened the enforcement of these provisions, ensuring a more transparent and competitive market environment.

As globalization and market dynamics continue to evolve, the need for strong competition laws becomes even more critical. The Indian legal framework is now better equipped to handle anti-competitive behaviors, aligning with global standards and ensuring that the nation's businesses remain competitive on the world stage. Ultimately, the evolution of competition law in India reflects the broader objectives of enhancing economic welfare, ensuring equitable market access, and fostering innovation for sustained growth.

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